

Appl. No. 09/676,227
Office Action mailed December 16, 2004
Response transmitted February 16, 2005

Attorney Docket 10022/35

REMARKS

The Application was filed with Claims 1-47, which are presently pending. Claims 1-47 stand rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Pat. No. 6,289,382 to Michel Bowman-Amuah ("Bowman-Amuah"). In addition, Claims 4, 6-30, 3-41, and 43 stand as provisionally rejected under the judicially created doctrine of obviousness type double patenting in view of several co-pending U.S. patent applications.

Previously Filed Information Disclosure Statements

Applicants electronically filed two Information Disclosure Statements (IDS) on August 6, 2004 consisting of five pages of U.S. Patents. Applicants respectfully request an initialed copy of both of the electronically submitted IDS's. A copy of the electronically submitted IDS's is attached as Attachment A to this paper. Also in Attachment A are printouts of the confirmation of successful submittal of the two IDS's.

Applicants also submitted a paper-filed Information Disclosure Statement and PTO 1449 via first class mail on August 6, 2004. A copy of the Information Disclosure Statement mailed August 6, 2004, is attached as Attachment B. Applicants respectfully request the Examiner to consider the prior art cited in the IDS mailed on August 6, 2004, and provide initialed copies of the PTO-1449 document included therein.

Applicants electronically filed one Information Disclosure Statement (IDS) on August 30, 2004 consisting of two pages of U.S. Patents. Applicants respectfully request an initialed copy of the electronically submitted IDS. A copy of the electronically submitted IDS is attached as Attachment C to this paper. Also in Attachment C are printouts of the confirmation of successful submittal of the IDS.

Applicants also filed an Information Disclosure Statement on December 20, 2004, consisting of one U.S. Patent. Apparently, the December 20, 2004, Information Disclosure Statement and the Office Action mailed on December 16, 2004, crossed in the mail. Applicants respectfully request an initialed copy of the PTO-1449 document included therein. An as-filed copy of the Information Disclosure Statement and the postal card stamped by the U.S. Patent and Trademark Office is attached as Attachment D.

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Double Patenting

Claims 4, 6-7, 13-30, 39-41, and 43 are provisionally rejected over several co-pending applications. The co-pending applications are being prosecuted by the law firm of the undersigned attorney.

The following identified co-pending applications have been abandoned: 09/677,136, 09/675,913, 09/677,065. Accordingly, the double patenting rejection related to these applications is moot.

The claims of the following identified patent applications have been amended and/or cancelled in office action responses: 09/675,232, 09/677,074, 09/706,012, 09/677,135 and 09/706,576. Accordingly, Applicants respectfully assert that the claims of these applications are now patentably distinct from the present application. Thus, Applicants respectfully request withdrawal of the obviousness type double patenting rejection of claims 4, 6-7, 13-30, 39-41 and 43.

The 35 U.S.C. § 102(e) Rejections

Claims 1-47 stand rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Pat. No. 6,289,382 to Michel Bowman-Amuah ("Bowman-Amuah"). This rejection is respectfully traversed because each and every limitation of claims 1-47 is not disclosed by Bowman-Amuah.


Applicants have submitted in a previous office action response mailed on August 4, 2004 declarations of Inventors Sargent and Taylor under 37 C.F.R. § 1.132 and associated information declaring that subject matter included in Bowman-Amuah is not the work of another but is the Applicants' own work. Thus, some of the cited portions of Bowman-Amuah do not qualify as prior art under 35 U.S.C. § 102(e). Since portions of Bowman-Amuah that were cited in the office action are not prior art, these portions of Bowman-Amuah cannot be used in a 35 U.S.C. § 102(e) rejection. A prior art reference only anticipates when the prior art reference discloses each and every limitation of the claimed invention. *Apple Computer, Inc. v. Articulate Systems, Inc.* 234 F.3d 14 (Fed. Cir. 2000). Accordingly, each and every limitation of the claimed invention is not disclosed by the work of Bowman-Amuah and Applicants respectfully request the Examiner to withdraw the 35 U.S.C. 102(e) rejection of Claims 1-47.

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The application is believed to now be in condition for allowance, which is respectfully requested. Should the Examiner deem a telephone conference to be beneficial in expediting examination and/or allowance of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,


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SNH/dlh

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